

Memorandum

Date: January 31, 2014

To: Charlton H. Bonham, Director
California Department of Fish and Wildlife
1416 Ninth Street, 12th Floor
Sacramento, California 94236-0001

From: Department of Water Resources

Subject: Confirmation of Continued Coverage Under California Endangered Species Act
Consistency Determinations

STATE WATER RESOURCES
CONTROL BOARD
2014 FEB -7 AM 11:36
DIV OF WATER RIGHTS
SACRAMENTO

The California Department of Water Resources (DWR) requests that the California Department of Fish and Wildlife (DFW) review the enclosed correspondence between the U.S. Department of Interior, Bureau of Reclamation (Reclamation), and U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) to determine if in light of the changes to Water Rights Decision 1641 (D-1641), authorized on January 31, 2014 by State Water Resources Control Board (State Water Board) Executive Order (Order), if DWR may continue to rely upon the existing California Endangered Species Act (CESA) coverage under Consistency Determinations for Delta Smelt and Salmon (CDs), and Incidental Take Permit for Longfin Smelt (Longfin ITP).

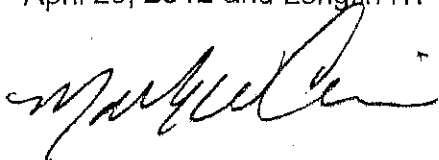
California is facing unprecedented critically dry conditions in the current water year, following two previous dry years. Reclamation and DWR have grave concerns over current hydrologic conditions in the Sacramento-San Joaquin Delta/San Francisco Bay watershed. These dry conditions resulted in a Drought Emergency Proclamation by the Governor on January 17, 2014. Based upon subsequent forecasts that indicate there is significant risk to water supplies for human health and safety, and cold water storage for protection of listed fish species, on January 29, 2014 DWR and Reclamation submitted a Temporary Urgency Change petition seeking modification of D-1641 (2014 TUC) to allow for the protection of minimum human health and safety water supply and preservation of cold water storage for protection of listed fish species. The 2014 TUC was granted by the State Water Board executive director on January 31, 2014.

The 2014 TUC modifies D-1641 to allow for the conservation of cold water storage and protection of human health and safety by modification of the February outflow requirement (X2) to 3,000 cfs in combination with reducing State Water Project (SWP) and Central Valley Project (CVP) combined exports to between 800 and 1,500 cfs, the minimum level necessary for protection of human health and safety. The 2014 TUC further protects human health and safety water quality by combating catastrophic salinity intrusion in the Delta, allowing for the immediate opening of the Delta Cross Channel gates with monitoring and real-time management to minimize impacts to listed fish species. Also, the 2014 TUC sets in place continued coordination between DWR, Reclamation, DFW, USFWS, NMFS, and the State Water Board to manage water supplies over the course of the declared drought emergency.

To confirm that operations permitted under this order is consistent with the federal Endangered Species Act (ESA), Reclamation coordinated with USFWS and NMFS to confirm consistency of these actions with the 2008 Coordinated Long Term Operation of the CVP and SWP Biological Opinion (2008 Smelt BiOp) and the 2009 NMFS Coordinated Long Term Operations of the CVP and SWP Biological Opinion (2009 Salmon BiOp) (collectively the BiOps). Through this letter, DWR is coordinating with DFW to confirm continued coverage under CESA.

Reclamation, in a January 31, 2014 letter from to USFWS, submitted a memorandum outlining its proposed modifications to D-1641 requested in the 2014 TUC, and reinstate consultation consistent with the Reinitiation Statement for consecutive dry or critically dry years in the 2008 Smelt BiOp to confirm that there will be no additional adverse effects of the 2014 TUC beyond those already analyzed. Similarly, in a January 31, 2014 letter to NMFS, Reclamation submitted a memorandum outlining its proposed modifications to D-1641 requested in the 2014 TUC. Response letters from USFWS and NMFS confirm that the changes requested by the 2014 TUC and permitted by the Order are within the analysis of the BiOps. These letters and associated attachments are included for your reference.

Based upon the attached correspondence and determinations, DWR requests confirmation that, for the purposes of complying with CESA, it may continue to rely upon the existing coverage under the CDs issued by CDFW on October 14, 2011 and April 26, 2012 and Longfin ITP issued on February 23, 2009.



Mark W. Cowin
Director
(916) 653-7007

Attachments

Cc: See Attached List

Distribution List:

Felicia Marcus, State Water Resources Control Board chair
Tom Howard, State Water Resources Control Board executive director
Craig Wilson, Delta Watermaster
Les Grober, State Water Resources Control Board water rights
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